

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

NORTHWEST SHEET METAL WORKERS
ORGANIZATIONAL TRUST; NORTHWEST
SHEET METAL WORKERS WELFARE
FUND; NORTHWEST SHEET METAL
WORKERS PENSION FUND; NORTHWEST
SHEET METAL WORKERS SUPPLEMENTAL
PENSION TRUST; WESTERN WASHINGTON
SHEET METAL TRAINING TRUST;
NORTHWEST SHEET METAL LABOR
MANAGEMENT COOPERATION TRUST; and
SHEET METAL WORKERS LOCAL 66,

Plaintiffs,

v.

OCEAN PARK MECHANICAL INC.,

Defendant.

No.

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

JURISDICTION AND VENUE

1. This is an action brought pursuant to Section 301 of the National Labor Relations Act, as amended (hereafter "the Act"), 29 U.S.C. § 185, and Section 502 of the Employee Retirement Income Security Act of 1974 (hereafter "ERISA"), 29 U.S.C. § 1132. Jurisdiction and venue are conferred upon this Court by 29 U.S.C. § 185(a), 1132(a), (e) and (f).

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PARTIES

2. Plaintiff NORTHWEST SHEET METAL WORKERS ORGANIZATIONAL TRUST (hereafter “Northwest Organizational Trust”) is a labor-management trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Northwest Organizational Trust is administered in the State of Washington from its place of business at 118 North Lewis Street, Suite 110, Monroe, WA 98272.

3. Plaintiff NORTHWEST SHEET METAL WORKERS WELFARE FUND (hereafter “Welfare Trust”) is a labor-management health and welfare trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Welfare Fund is administered in the State of Washington.

4. Plaintiff NORTHWEST SHEET METAL WORKERS PENSION FUND (hereafter “Pension Trust”) is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

5. Plaintiff NORTHWEST SHEET METAL WORKERS SUPPLEMENTAL PENSION TRUST (hereafter “Supplemental Pension Trust”) is a labor-management pension trust fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Pension Fund is administered in the State of Washington.

6. Plaintiff WESTERN WASHINGTON SHEET METAL TRAINING TRUST (hereafter “Training Trust”) is a labor management training fund created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1). Plaintiff Training Trust is

1 administered in the State of Washington.

2 7. Plaintiff NORTHWEST SHEET METAL LABOR MANAGEMENT
3 COOPERATION TRUST (hereafter “Cooperation Trust”) is a labor-management trust fund
4 created pursuant to the provisions of Section 302(c) of the Act, 29 U.S.C. § 186(c), and
5 authorized to sue in its own name by Section 502(d)(1) of ERISA, 29 U.S.C. § 1132(d)(1).
6 Plaintiff Cooperation Trust is administered in the State of Washington.

7 8. Plaintiff SHEET METAL WORKERS LOCAL 66 (“Local 66”) is a labor
8 organization. It represents for purposes of collective bargaining persons who are employed in
9 the construction and marine repair industries. Those industries affect commerce within the
10 meaning of the Act.

11 3. Defendant Ocean Park Mechanical Inc. (hereafter “Ocean Park”) is a sheet
12 metal contractor and is a party to a collective bargaining agreement with Sheet Metal Workers
13 Local 66. That industry affects commerce within the meaning of the Act. Ocean Park has
14 employed or does employ persons represented by Local 66. Ocean Park’s principal place of
15 business is 14900 Interurban Ave S, Suite 283, Tukwila, WA, 98168, United States.

16 **CLAIM FOR RELIEF**

17 4. Plaintiffs incorporate by reference as though set forth fully herein paragraphs 1
18 through 5 above.

19 5. The collective bargaining agreement between Defendant and Local 66 was in
20 effect at all times material hereto. By that agreement Defendant became obligated to make
21 monthly contributions to plaintiffs Welfare, Pension, and Supplemental Pension, as well as
22 other funds, on behalf of employees represented by Local 66. By that agreement Defendant
23 also became obligated to comply with the terms of the trust agreements adopted by plaintiffs.

24 6. Defendant has also agreed to and has received money from its Local 66
25 employees, as part of the employees’ after-tax wages, which Defendant is and was obligated on
26 a monthly basis to deposit into each employee’s account, or submit to Local 66 as part of each

1 employee's dues obligation. Defendant holds such money in trust.

2 7. Payments due to the various plaintiff and non-plaintiff Trusts, and the amounts
3 of employees' after-tax wages held in trust by Defendant, are calculated pursuant to a
4 contribution reporting form required to be prepared monthly by Defendant.

5 8. Pursuant to the trust agreements adopted by plaintiffs, the completed
6 contribution reporting form and accompanying payment are due at the Welfare office and
7 address within fifteen (15) days after the end of each calendar month.

8 9. Defendant's contributions to Plaintiffs owed for the month of July 2019 for
9 Defendant were due no later than August 15, 2019. Defendant's contributions were shipped on
10 August 22, 2019 and received by Plaintiffs on August 23, 2019. Defendant therefore failed to
11 timely make all contributions to Plaintiffs owed for the month of July 2019, despite its
12 obligation under the collective bargaining and trust agreements to which it is bound to do so
13 and despite demand by plaintiffs. In accordance with those trust agreements, Defendant was
14 assessed liquidated damages (known more commonly as "late fees") for the month of July
15 2019 in the amount of \$7,419.51, which Defendant has improperly refused to pay despite
16 multiple demands from Plaintiffs.

17 10. As such, Defendant owes outstanding late fees, in violation of its obligations
18 under the trust agreements, the collective bargaining agreement, and Section 515 of ERISA, 29
19 U.S.C. § 1145, which requires that "[e]very employer who is obligated to make contributions
20 to a multiemployer plan under the terms of the plan or under the terms of a collectively
21 bargained agreement shall, to the extent not inconsistent with law, make such contributions in
22 accordance with the terms and conditions of such plan or such agreement."

23 11. Unless ordered by this Court, Defendant will continue to refuse to pay to the
24 Plaintiffs the late fees due them. As a result, Plaintiffs will be irreparably damaged.

25 12. Plaintiffs are entitled to the following pursuant to Section 502(g) of ERISA, 29
26 U.S.C. § 1132(g):

- (a) the unpaid late fees;
- (b) reasonable attorneys' fees and the costs of this action; and
- (c) such other legal or equitable relief as the court deems appropriate.

13. Plaintiffs are also entitled to the following pursuant Section 301 of the Act, 29 U.S.C. § 185, as amended, to enforce the terms of the collective bargaining agreement, which in turn requires Defendant to comply with the trust agreements, and thereby recover:

- (a) the unpaid late fees; and
- (b) reasonable attorney fees and court costs.

A copy of this complaint will be served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by ERISA, 29 U.S.C. § 1132(h).

WHEREFORE, plaintiffs demand judgment against the Defendant:

1. Obligating Defendant to pay to plaintiffs the full amount of all late fees owing, with the proper amount of interest as established by Section 502(g) of ERISA, 29 U.S.C. § 1132(g), the Trust Agreements, and the collective bargaining agreement;

2. Restraining and enjoining Defendant, its officers, agents, servants, attorneys, and all persons acting on its behalf or in conjunction with it from: (a) refusing to pay late fees to plaintiffs; and (b) refusing to pay to plaintiffs all monies, including interest, due from August 15, 2019 to current, and for all periods thereafter for which Defendant is obligated to make timely payments under the terms of the collective bargaining agreement and trust agreements and policies incorporated thereto;

3. Requiring Defendant to pay to plaintiffs reasonable attorneys' fees and the costs of this action as set forth in Section 502(g) of ERISA 29 U.S.C. § 1132(g), and as recoverable under Section 301 of the Act, 29 U.S.C. § 185, through enforcement of the collective bargaining agreement and trust agreement and policies incorporated thereto; and

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1 4. Granting plaintiffs such further and other relief as may be just and proper.

2 DATED this 31st day of October, 2019.

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9 Of Attorneys for Plaintiffs